

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GERARDO HERNANDEZ,

Plaintiff,

v.

MRVS ENTERPRISES INC., et al.,

Defendants.

Case No. 21-cv-06441-JSC

**ORDER RE: PLAINTIFF'S
ADMINISTRATIVE MOTION TO
CONTINUE SERVICE DEADLINE**

Re: Dkt. No. 39

Plaintiff filed this disability access action August 19, 2021. (Dkt. No. 1.) On October 18, 2021, the Court granted Plaintiff's motion for administrative relief from the service deadline because of difficulty serving Defendants. (Dkt. No. 9.) Plaintiff thereafter effectuated service on Defendants. (Dkt. Nos. 10, 11.) Defendant MRVS Enterprises answered the complaint, but following Defendant Pradeep Kantilal Khatri's non-appearance, Plaintiff moved for and obtained his default. (Dkt. Nos. 12, 13, 16.) Following unsuccessful mediation, the Court ordered Plaintiff to move for default judgment as to the defaulted defendant. (Dkt. No. 26.) Plaintiff requested relief from the Court's order because he alleges that Defendants are jointly and severally liable. (Dkt. No. 28.) The Court granted Plaintiff's request and entered a pretrial order. (Dkt. No. 31.) The parties thereafter filed a stipulation granting Plaintiff leave to file a first amended complaint "to allege additional access barriers which relate to his alleged disability which were identified during the pendency of this action, and to correct the name of the property owners," which the Court granted. (Dkt. Nos. 33, 34.)

Plaintiff now again moves for administrative relief from the service deadline because of issues serving Defendants Pradeep K. Khatri and Kokila Pradip Khatri. (Dkt. No. 39.) Plaintiff's motion is accompanied by a declaration attesting to multiple service attempts. (Dkt. No. 39-1 at

¶¶ 4-6.) Plaintiff's counsel indicates that she has hired a process server "who specializes in 'difficult service.'" (*Id.* at ¶ 9.) Plaintiff seeks until April 6, 2023 to effectuate service or move for service by publication. Defendant MRVS Enterprises opposes Plaintiff's request because he contends Plaintiff has not been diligent in effectuating service and "is attempting to serve the same or similar parties since the lawsuit was filed." (Dkt. No. 40 at 3.)

Plaintiff's motion for administrative relief is GRANTED IN PART. Defendant has not shown any prejudice by the delay in service and while one of defendants is the same as a previously named defendant, Plaintiff is required to serve the Amended Complaint on all Defendants. *See Emp. Painters' Tr. v. Ethan Enterprises, Inc.*, 480 F.3d 993, 999 (9th Cir. 2007) (discussing service requirements for amended complaints under Federal Rules of Civil Procedure 4 and 5). Accordingly, the service deadline is extended to March 16, 2023. Plaintiff must file proof of service of the summons and complaint or a motion for alternate service by this date.

This Order disposes of Docket No. 39.

IT IS SO ORDERED.

Dated: February 13, 2023


JACQUELINE SCOTT CORLEY
United States District Judge